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# PROTECTIONISM IN THE EEC AND ITS IMPLICATIONS TO DEVELOPING COUNTRIES*

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## Table of Contents


Introduction

I. Tariff Protection 2

General Survey 2
Generalized System of Preferences 4
- Quantitative Limits for Preferential Access 5
- Administrative Requirements 10
- Evaluation of the Scheme 12

II. Non-tariff Protection 16

Textiles and Clothing 17
- First Extension of the Multifibre Arrangement (1977-81) 18
- Second Extension of the Multifibre Arrangement (1982-86) 20
- Evaluation of Protection 21

Safeguard Clause 23
Anti-dumping and Countervailing Duties 24
The Common Agricultural Policy 27
- Description of the Portective Means 28
- Evaluation of Protection 30

III. Summary and Conclusions 32

Footnotes 34

## Introduction

Protectionism in the developed countries is an obstacle in industrial development and restructuring in the developing countries. The present report describes the instruments of protectionism used in the European Communities and discusses the impact of such measures on imports from developing countries. The report deals only with those instruments aimed at protecting domestic industries and based on the Treaties establishing the European Economic Community and the European Coal and Steel Community (both henceforth condensed under the abbreviation EEC). The main instruments are tariffs, and quantitative import restrictions, anti-dumping and counter-vailing duties, and the Common Agricultural Policy (i.e., non-tariff measures). In particular, this report tries to give an impression of the products affected most by EEC protectionism and to trace the development of this highly complex system over the last few years.

This report does not deal with prohibitions, quantitative restrictions or measures of surveillance applied on grounds of public morality, policy or public security, the protection of health and life of humans, animals or plants, quality standards or packaging regulations. Neither does it deal with the use of restrictive business practices in import and export transactions, e.g. price-fixing arrangements, restrictions on the distribution of products or restrictions in licencing arrangements involving patents, trademarks and know-how.

Chapter I deals with the actual tariff situation in the EEC focusing on the UNCTAD-sponsored Generalized System of Preferences (GSP), its history, and its implications to the developing countries.

Chapter II describes the main non-tariff instruments of protectionism, the conditions of their application, their scope, and their significance to the developing countries. Chapter III provides a brief summary and conclusions.

## I Tariff Protection

### - General Survey

Tariffs are the classic instrument used to protect domestic industries against the importation of competitive products from the world market. But tariffs, abolished in the intra-EEC trade, have also lost much of their former importance in the external trade of the EEC countries. According to UNCTAD "... the lowest actual tariff rates were found to be applied in the EEC. The trade-weighted actual rate for EEC imports from the world is 2.9 per cent. For the United States, the corresponding figure is 4.3 per cent and for Japan 7.0 per cent".[1/] This outcome is mainly the result of the gradual reduction of tariff barriers achieved in seven rounds of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT) and of the agreements the EEC has negotiated with different countries and groups of countries in order to apply preferential tariffs. But, the global figure cited by UNCTAD is an average rate and should not distract from the fact that tariffs in special sectors are still high enough to guarantee sufficient protection, to selected products.

Tariff cuts were achieved through bilateral bargaining or, in the Kennedy Round of 1964-67 and the Tokyo Round of 1973-79, on a basis of multilaterally negotiated across-the-board tariff reductions with bargained exceptions. The results were unconditionally conceded as so-called mfn tariffs[2/] to all other countries, even to non-member countries of the GATT. The most important bargaining took place among the major developed trading countries, with the developing countries playing a relatively marginal role. Thus, overall, the tariff cuts were proportionately greater on products traded mainly among the major developed countries. Even though the developing countries benefited from the agreed results by the general application of tariff reductions, their own direct needs were not adequately represented and neglected as a result. The Tokyo Round, for example, brought no or only very little progress relating to agricutural primaries or processed goods of greatest interest to developing countries. The EEC nominal tariff rates [3/] on honey (27 per cent), bananas (20 per cent), crude palm oil for the manufacture of foodstuff (6 per cent), other crude solid oils (10 per cent), cocoa paste (15 per cent) and extracts, essences or concentrates of coffee (18

per cent), meanwhile, remained unchanged and consequently still represent a crucial trade barrier.

Developing countries which are not well endowed with natural resources, such as minerals or agricultural primaries, tend to start industrializing by concentrating on products and techniques well suited to low-cost labour. Textiles and clothing as well as footwear and leather products are prominent examples of such activities. The tariff cuts, agreed on in the Tokyo Round for these and other products of greatest interest to the developing countries, are remarkably low. While the final tariff cuts on an import-weighted basis will be about one third, the corresponding figure for products from developing countries will be about one quarter.[4/] Furthermore, the latter reductions generally apply to tariff rates which are in any case substantially higher than average tariff rates. The following table shows, for several of the products concerned, the nominal mfn tariff rates of the EEC valid in 1976 and valid when the negotiated tariff cuts will be fully effective (not later than 1 January 1987). In addition, the percentage of the reduction is indicated.

| | base rate | final rate | percentage of reduction |
|---|---|---|---|
| Coffee, unroasted, not freed of caffeine | 7% | 5% | 28.6 |
| Bovine cattle leather, other than blue wet | 8% | 7% | 12.5 |
| Articles of apparel of leather | 8% | 7% | 12.5 |
| Undergarments | 17% | 13% | 23.5 |
| Outergarments | 18% | 14% | 22.2 |

Another related obstacle the developing countries have to cope with in their efforts to promote export-oriented industrialization, is the escalation of protection with rising degrees of processing. While most of the raw materials, available from natural resources, and the primary products of low-income tropical agriculture face zero or low tariff rates in the developed countries, the same products, once processed, are subject to higher tariff rates. The application of a higher nominal tariff rate on processed goods results in an amplified effective rate of protection.

With the countries that form the European Free Trade Association (EFTA)

and with the Mediterranean countries (Spain, Morocco, Algeria, Malta, Cyprus, Egypt, Israel, Jordan, Lebanon, the Syrian Arab Republic, Turkey and, recently, Yugoslavia) the EEC agreed on special mainly reciprocal preferences. The agreements provide duty-free entry into the EEC for most of the manufactured non-agricultural products originating in the contracting countries. For several agricultural products, not subject to variable levies, customs duties are totally suspended or partially reduced. The same advantages are granted, but without reciprocity, to products originating in the African, Caribbean and Pacific (ACP) countries, which are contracting parties of the Lomé Convention, signed in 1975 and extended in 1979. The latter concedes preferential access to the EEC market and the non-application of quantitative restrictions to products mainly from eligible Commonwealth countries and francophone African States associated with the EEC under the Yaounde Convention. In addition, it provides the ACP countries with aid, industrial co-operation, export earning stabilization and several concessions relating to agricultural products, subject to variable levies in the EEC.

- The Generalized System of Preferences

For all other developing countries, left out by the above mentioned agreements, the restraining effects of mfn tariffs on their exports are reduced to a certain extent by the GSP. Its operating concept of completely non-reciprocal preferences was sponsored by the Second UNCTAD in 1968. The main objectives of the GSP are to increase the exports earnings of the developing countries, to promote industrialization in these countries and to accelerate their economic growth. The EEC implemented a GSP scheme in July 1971. It applies to more than 120 countries, including 60 ACP countries and 9 Mediterranean countries, and to about 20 dependent territories, such as Hong Kong or Macao. Preferences on a curtailed range of products have been given to Romania since 1974 and to the People's Republic of China since 1980. The GSP scheme covers all finished and semi-finished industrial products and about 300 agricultural products, not subject to variable levies. The exclusion of primary industrial products, which is in accordance with the declared objectives of the GSP, is of limited importance as most of these products can enter the EEC duty-free. For industrial products the preference consists of a total suspension of customs duties. For agricultural products customs duties are totally suspended or partially reduced.

- Quantitative limits for preferential access

For the bulk of manufactured industrial products actually deliverable by developing countries and for raw tobacco, cocoa paste, preserved pineapples, and extracts, essences or concentrates of coffee the duty-free access to the EEC market is limited by quotas or ceilings.[5/] Exports from the least developed non-ACP countries (Afghanistan, Bangladesh, Bhutan, Haiti, Laos, Maldive Islands, the People's Democratic Republic of Yemen and the Arab Yemen Republic) have been totally exempted from quantitative restrictions since 1980. In general, quotas and ceilings are fixed as maximum quantities (mainly for textiles and clothing) or maximum values. As soon as the maximum amount admitted under a quota is reached, imports at preferential rates are automatically stopped and further imports are subject to mfn rates. When imports charged against a ceiling reach the maximum EEC amount, the EEC authorities can re-introduce the levying of the regular customs duties, acting either on their own initiative or on the request of an EEC country. Products originating in ACP countries are not charged against these quotas or ceilings if they enjoy exemption from customs duties under the Lomé Convention.

Other products granted preferential treatment and not subject to quotas or ceilings are under statistical surveillance. Where the increase of preferential imports of these products causes, or is likely to cause, economic difficulties in the EEC as a whole or in a certain region, the EEC authorities may introduce customs duties, acting on their own initiative or on the request of an EEC country. In 1981, the reference basis for this examination was the highest ceiling amount fixed for the product in question in 1980 plus 2 per cent to take account of the entry of Greece to the EEC, and in 1982 it was 120 per cent of the highest ceiling fixed in 1980.

During the first decade of the GSP application by the EEC, preferential exports of a given product from any beneficiary country were not allowed to exceed 50 per cent of the quota or ceiling fixed for that product. Once one country's exports reached this limit mfn tariffs were re-introduced for products originating in the country concerned. This maximum country amount was reduced to 30 per cent or even 20 per cent of the quota or ceiling for exports from the most competitive developing countries. Since 1976, the maximum country amount has been limited to 15 per cent of the quota or ceiling for countries whose exports had reached the maximum country amount during the

last two years or had represented 40 per cent of the EEC imports of the given product. This limitation did not apply to developing countries either with a low per capita income or depending on the EEC market for more than 10 per cent of their total exports.

The maximum amounts controlled via quotas and ceilings were fixed, product by product, as follows: All cif values of imports in a given reference year from GSP beneficiary countries, excluding those already enjoying preferential treatment under the Lomé Convention, were added (basis amount). This sum was increased by 5 per cent of all cif values of imports in a given reference year from all other countries including ACP countries (additional amount). In general, the reference year for the additional amount was more current than that for the basis amount in order to grant an adequate improvement of the maximum amounts. Reference year for the basis amount/additional amount ratio was fixed as follows: In 1971 - 1968/1968; in 1972 - 1968/1969; in 1973 - 1968/1970; in 1974 - 1971/1971; in 1975 - 1971/1972; in 1976 the global increase was fixed at 15 per cent as statistical data was not available in time; in 1977 - 1974/1974; in 1978 - 1974/1975; in 1979 - 1974/1976, but the result was not allowed to exceed 150 per cent of each of the preferential amounts open in 1978; in 1980 - 1977/1977, but the result was not allowed to exceed 110 per cent or 115 per cent of each of the preferential amounts open 1979.[6/] This method resulted in a growth of global quotas and ceilings by about 15 per cent per year until 1976. Since then, this method has been abandoned for the bulk of products where exports from developing countries succeeded in a high market penetration. In general, the admitted improvement for these "sensitive" products has been limited to 5 per cent or even zero (mainly for iron and steel products and footwear); in any case the growth rate, has been kept below the underlying rate of inflation.

For the second decade of application, the EEC modified its GSP scheme in 1981. A reform of quotas, ceilings and maximum country amounts have brought some transparency into the complex system of quantitative restrictions. Now, quotas are only fixed for sensitive products originating in a developing country considered to be competitive. Whether a developing country is competitive in this sense depends on the compliance with one of the following criteria: first, a maximum country amount fixed for the product in question was exhausted and the customs duties were re-introduced in three successive years or, second, the country's share of the total EEC imports of the given

product form all beneficiary countries in 1978 was 20 per cent or more or - for less sensitive products - 40 per cent or more. These criteria do not apply to countries whose GDP per capita keeps within that of certain more advanced developing countries or whose main exports consist of the product in question. The majority of ceilings was abolished and the character of the remainder was changed from a global (for imports from all beneficiary countries) to an individual (for imports originating in a given country) restriction. Thus, every country can actually receive preferential treatment for its exports up to the amount fixed by the ceiling if exports from other countries do not exhaust the maximum amount.

Some pertinent details for recent years are as follows: (textile products are not dealt with.)

- In 1981, there were several essential cut-backs of the maximum amounts fixed for the following imports: both bovine cattle leather and goat and kid skin leather, not processed beyond tanning; travel goods, hand bags and similar containers of leather; plywood; certain products of iron or steel (e.g. coils for re-rolling, bars and rods, tubes and pipes); cutlery; radio receivers; diodes and transistors.

- In 1981, when the system was changed, ceilings or maximum country amounts fixed for products in 1980 were transformed to quotas in 50 cases.

- The countries whose preferential access to the EEC market was restricted by quotas are the Republic of Korea (30 cases in 1981, 31 cases in 1983), Hong Kong (24 cases both in 1981 and 1983), Brazil (14 cases in 1981, 19 cases in 1983), Argentina, Venezuela and Yugoslavia (each 4 cases both in 1981 and 1983), Singapore (3 cases in 1981, 4 cases in 1983), Malaysia and Libya (each 2 cases both in 1981 and 1983), Chile (2 cases in 1981, 1 case in 1983), Indonesia, the Philippines, Uruguay, India and Pakistan (each 1 case both in 1981 and 1983) and Mexico (1 case in 1983). Romania (7 cases in 1981, 16 cases in 1983) and the People's Republic of China (7 cases in 1981, 17 cases in 1983) have to be considered separately as the range of products which were excluded from preferential treatment was reduced at the same time.

- Quotas and ceilings for agricultural products have not been increased over 1981 to 1983.

- The maximum amounts for preferential exports to the EEC have not been increased over 1981 to 1983 for the following industrial products: rubber tyres originating in the Republic of Korea or the People's Republic of China; leather from all countries; travel goods, hand bags and similar containers originating in the Republic of Korea or Hong Kong; footwear from all countries; umbrellas and sunshades originating in Hong Kong; glazed sets, flags and pavings, hearth and wall tiles, and tableware of earthenware or fine pottery, originating in the Republic of Korea; imitation jewellery originating in the Republic of Korea or Hong Kong; iron and steel products from all countries; tubes and pipes etc. of copper, originating in Brazil or Chile; knives originating in the Republic of Korea or Hong Kong ; sewing machines originating in Brazil or the Republic of Korea; radio receivers originating in the Republic of Korea, Hong Kong or Singapore; image projectors, photographic enlargers or reducers from all countries; quartz watches originating in Hong Kong; watch cases and parts thereof from all countries.

- For another 17 products the ceiling or quota fixed for the preferential access to the EEC market in 1982 was not increased in 1983.

Textiles and clothing, which constitute the largest component of developing countries' exports of manufactures, enjoy tariff suspension in the GSP scheme for curtailed quantities and are under severe control. The GSP preferences for most of these products have been linked to the arrangements developed in the GATT to handle the adjustment problems of the textiles and clothing industries, i.e. the Long-term Arrangement on International Trade in Cotton Textiles and, since 1973, the Multifibre Arrangement (MFA). Thus, for MFA products preferential tariffs are only granted for textiles and clothing originating in countries which have signed arrangements on voluntary export restraints or agreed on similar restrictions. Preferences also apply to exports of the least developed countries. Furthermore, preferential treatment is applicable to textiles and clothing, not subject to the MFA, originating in all developing countries. For the products maximum quantities

are fixed and controlled by ceilings. For all exports of textiles and clothing the preferential treatment was conceded within the following maximum quantities:[8/] 19 429 t in 1971, 39 444 t in 1972, 42 631 t in 1973, 68 205 t in 1974, 75 323 t in 1975, 79 131 t in 1976, 85 725 t both in 1977 and 1978, 88 000 t in 1979 and 115 000 t 1980.[8/]

The maximum amounts globally fixed for all EEC imports are spread over more than 120 specified categories of textiles and clothing and all eligible countries. In 1980, the individual quotas for MFA products were set according to the competitive power of the country concerned (expressed by its

| Beneficiary country | Arithmetic result of import share and GDP per capita | Imports in 1977 (tonnes) | Individual share in quotas (rate in %) | (in tonnes) |
|---|---|---|---|---|
| Hong Kong | 48 530 | 114 760 | 2 | 2 295 |
| Romania | 8 265 | 28 645 | 2 | 572 |
| PR China | | 27 840 | 2 | 1 090 |
| Rep. of Korea | 10 988 | 81 717 | 9 | 7 354 |
| Brazil | 10 488 | 45 793 | 9 | 4 121 |
| Yugoslavia | 10 248 | 30 675 | 9 | 2 760 |
| Singapore | 7 290 | 13 513 | 15 | 2 026 |
| Malaysia | 2 666 | 15 589 | 35 | 5 456 |
| Macao | 2 538 | 13 577 | 35 | 4 751 |
| India | 2 130 | 70 909 | 35 | 24 818 |
| Argentina | 2 015 | 6 459 | 35 | 2 260 |
| Thailand | 1 520 | 19 901 | 35 | 6 965 |
| Mexico | 1 417 | 6 515 | 35 | 2 280 |
| Columbia | 1 153 | 9 068 | 35 | 3 173 |
| Peru | 720 | 4 384 | 65 | 2 849 |
| Pakistan | 697 | 20 528 | 65 | 13 343 |
| Philippines | 492 | 5 760 | 65 | 3 744 |
| Uruguay | 139 | 676 | 65 | 439 |
| Indonesia | 24 | 585 | 65 | 380 |
| Guatemala | | 85 | 65 | 55 |
| Least developed non-ACP countries | | | 100 | |

share in the total EEC imports of textiles and clothing originating in all beneficiary countrys) and its stage of development (expressed by the GDP per capita). The individual share of the global quota conceded to a certain country is inversely proportional to the arithmetic result of the import share and the GDP per capita. The following table shows the maximum quantities fixed as quotas for 1980.[9/]. Even though the maximum amount was considerably increased in 1980, the effective improvement of preferential access will be much lower. The distribution of the global amount to the categories and to every country has the effect that not every amount allocated to a category for each country gets exhausted.

Preferences for agricultural products were conceded for 147 products when the GSP scheme entered in force in the EEC in 1971. The granted reduction of tariff rates was about 20 per cent. Meanwhile, improvements in the range of products (to a number of about 320 in 1982) and in the preference margin have been reached. Special advances were made in favour of the least developed non-ACP countries: since 1979, they have enjoyed total suspension from customs duties for all GSP favoured agricultural products and, since 1981, their exports have not been subject to quotas fixed on four agricultural products.

- Administrative Requirements

The effectiveness of the GSP scheme is further reduced by rigid and complex rules of origin. Eligibility for preferential tariffs is subject to conformity with the concept of originating products.[10/] In principle, products are considered to be originating in the beneficiary country when they are obtained in that country or when they are produced exclusively from materials which are obtained in that country. Products which are processed from other materials can also be subject to preferential treatment if the products have undergone sufficient processing. In general, processing is considered to be sufficient when the final products fall within a tariff heading [11/] different from each of the processed materials. However, this rather simple rule is undermimed by two lists: list A records operations resulting in a change of tariff heading without conferring the status of originating product. This list concerns about 300 tariff headings (one third of them are textile products) and it cuts back the range of products favoured

by preferences. The following products, for instance, are only considered as originating products if certain conditions are fulfilled:

- yarn or fabrics of man-made fibres if they are manufactured from chemical products or textile pulp;

- garments if they are manufactured from yarn;

- radio-broadcasting and television reception apparatus if the value of the materials and the parts used does not exceed 40 per cent of the value of the final product and provided that at least 50 per cent in value of the materials and parts used and all the transistors are originating products.

List B records operations which do not result in a change of the tariff heading but confer the status of originating products on the products resulting from such operations. The list concerns about 100 specified operations.

The Lomé Convention provides similar rules [12/] but their concept of originating products differs from the GSP concept in two aspects: products are said to be originating in the ACP countries even when the processed materials they contain were imported totally or partially from the EEC. Further, a "cumulation of origin" is allowed among ACP countries, i.e. wood of Cameroon origin, sawn lengthwise in the Central African Republic, could be processed in Tanzania by adding a glass lamp-shade from Barbados and cables from the EEC to a table lamp originating in the ACP countries. The GSP concept of originating products excludes a cumulation of origin, except on behalf of the countries of the Central American Common Market (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua), of the Association of South East Asian Nations (Indonesia, Malaysia, the Philippines and Thailand) and of the Andean Group (Bolivia, Colombia, Ecuador, Peru and Venezuela).[13/] Furthermore, the provision that products may be considered as originating in the beneficiary country even if the processed materials are of EEC origin does not apply to exports from GSP beneficiary countries. This may hinder the offshore processing of EEC intermediates in the developing countries concerned as well as the co-operation among them.

Compliance with product-origin requirements must be confirmed by a certificate of origin. These certificates are issued by an appropriate governmental authority, which must notify the EEC of this intention in advance. The forms used for the certificate of origin must be printed according to a given pattern and technical instructions (e.g. a special safety colour has to be used which was not available in every beneficiary country). On the one hand, this means that exporters other than those from beneficiary countries are hindered from declaring their products as eligible for preferential tariffs. On the other hand, these technical requirements disqualify certain exports actually originating in a beneficiary country from preferential treatment, namely when they are not in compliance with the specified documentary requirements. This problem may in turn be reinforced by deficiencies in the communication system in less developed countries.

- Evaluation of the Scheme

During the first decade, the utilization of the GSP concentrated on a relatively small range of products. About 50 per cent of these preferential exports were treated as sensitive or semi-sensitive by the EEC and controlled by quotas and ceilings. What is remarkable however, is the relatively small number of developing countries making use of the preferential access offered by the EEC. In 1978, for instance, 67.8 per cent of the total of preferential exports were realized by only ten developing countries, in 1980, 70 per cent were realized by thirteeen developing countries. The most important GSP exporter countries increase in number (to sixteen) when the exports are split up into the different categories of sensitive, semi-sensitive and non-sensitive products. The order among them varies from category to category of exports in 1978 as the following table demonstrates:[14/]

Among the main exporters we find some of the most advanced developing countries, such as Yugoslavia, the Republic of Korea, Brazil and Romania. They have in any case reached the point where they are restrained in their market access by quotas and ceilings. But we also find some poorer countries with traditional trade links to EEC countries like India, Malaysia or the Philippines for example. Some of the countries mentioned in the table have succeeded in a diversification of their products, others are still depending heavily on particular items. The position of Malaysia as the second exporter of non-sensitive products, for instance, is mainly based on the fact, that 62

Share of the most important supplier countries in total GSP exports to the EEC

| | Total | Sensitive Products | Semi-sensitive Products | Non-sensitive Products |
|---|---|---|---|---|
| 1 | 10.9 Yugoslavia | 26.9 Brazil | 9.5 Yugoslavia | 15.1 Yugoslavia |
| 2 | 9.7 Hong Kong | 18.5 Rep. of Korea | 8.9 Hong Kong | 14.0 Malaysia |
| 3 | 9.2 Brazil | 13.5 India | 6.9 Venezuela | 12.9 Hong Kong |
| 4 | 8.9 Rep.of Korea | 7.5 Malaysia | 6.8 Romania | 9.2 India |
| 5 | 7.9 Malaysia | 5.7 Singapore | 6.4 Rep.of Korea | 7.6 Brazil |
| 6 | 7.6 India | 4.6 Thailand | 3.1 India | 7.0 Rep.of Korea |
| 7 | 4.3 Romania | 3.8 Yugoslavia | 2.8 Kuwait | 5.5 Argentina |
| 8 | 3.3 Singapore | 3.7 Iran | 2.6 Brazil | 4.4 Philippines |
| 9 | 3.0 Argentina | 3.3 Hong Kong | 2.3 Singapore | 4.4 Mexico |
| 10 | 3.0 Venezuela | 3.2 Philippines | 2.1 Pakistan | 3.6 Romania |
| Total | 67.8 per cent | 90.7 per cent | 51.4 per cent | 83.7 per cent |

per cent of its total exports are palm oil. Brazil is in the first position of exporter countries of sensitive products as it exports 94 per cent of the EEC imports of coffee-extracts.[15/]

The average use of preferential treatment offered by the EEC is remarkably low. The rate of GSP utilization referred to the maximum amounts admitted for preferential access was in 1971: 44 per cent, in 1972: 41 per cent, in 1973: 55.6 per cent, in 1974: 65 per cent, in 1975: 50 per cent, in 1976: 62 per cent, in 1977: 63.1 per cent, in 1978: 60 per cent, in 1979: between 55 and 60 per cent, and in 1980: about 60 per cent. The rate of utilization differs considerably from sector to sector. In 1978, for example, the quotas and ceilings fixed for the following sensitive and semi-sensitive products were exhausted to a degree of about: 25 per cent for iron and steel products; 90 per cent for footwear; 76 per cent for textiles and clothing; 96 per cent for other industrial products restricted by quotas and 127 per cent for those controlled by ceilings; 76 per cent for the agricultural products restricted by quotas (cocoa paste, coffee-extracts, pineapples and raw Virginia tobacco) and 130 per cent for products other raw tobaccos. For non-sensitive industrial products the calculated offer for preferential access was only used up to 36 per cent.[16/]

The share of imports actually admitted under preferential tariffs - expressed as a percentage in total of EEC imports is a modest one. It was 3.5 per cent in 1976, 4.3 per cent in 1977 and about 5.5 per cent in 1968.[17/] The published figures vary tremendously according to the definition used. If all imports from the beneficiary countries are considered then the above (lowest) figure is obtained. If all generally dutiable imports from the beneficiary countries are considered, the figure (for 1977) rises to 16 per cent. If only imports of products included in the scheme from the beneficiary countries are considered, the figure (for 1975) is 23 per cent) etc..[18/]

The differential application of GSP preferences by the EEC has increased considerably over time. It resulted from the perceived necessity to differentiate preferential exports according to the degree of the beneficiary country's development and industrialization, its competitiveness and the sensitivity of the EEC industries and markets in question. The declared intention was to prevent the most competitive developing countries from exhausting the quotas and ceilings at the expense of others which are less advanced in terms of their industrialization, infrastructure and trade system. But, the low rates of utilization of the GSP scheme and its relatively intensive use by a small number of countries, even with restrained access to preferential status, reflects the inability of most developing countries to take full advantage of the scheme. Thus, exports of certain developing countries have become more and more restricted while the productive capacity of other developing countries has not been large enough to fill the gap. The graduation of preference-giving practised by the EEC, which is regarded to be discriminatory by the developing countries concerned, leads to more protectionism without contributing to an effective improvement on behalf of the poorest countries.

The preferential treatment offered by the GSP scheme may be of little value to the few developing countries with competitive industries because they are more or less phased out of the benefits with respect to sensitive products. Nevertheless, the GSP scheme gives them an opportunity to improve their supply potential and to accelerate the diversification of their industries. The greatest direct benefit is likely to accrue to those developing countries which are not yet competitive but have at their disposal the necessary means, however limited, to develop an industrial capacity and to gain export earnings. The least developed countries can not profit from GSP

preferences as long as they are lacking financial and technological resources required to begin industrializing. Industrialization in developing countries depends to a large extent on transfers of capital and technology as demonstrated by the newly industrializing countries. Thus, the developing countries' needs in this aspect can not be satisfied by preferential market access. But, preferential access to export markets may contribute to a better earning capacity of invested capital, for instance, and in that sense it can be an effective complement to an efficient development policy, presuming that the preferential market access is guaranteed for a long-term period.

The unilateral and non-contractual nature of the GSP scheme severely erodes the possible positive effects the system might otherwise have. A scheme anchored in law and permanently applied would greatly reduce the uncertainty for developing countries generated by the current system. The problems resulting from the non-contractual nature of the scheme are reinforced by the tendency of graduated preference-giving practised by the EEC. The developing countries cannot plan long-term industrializing based on the advantages of preferential market access. If the newly installed industries prove to be successful and enable the developing country to penetrate the EEC market, the promised advantages (as well as the expansion of exports and export earnings) may be limited by quotas or ceilings or by other unforeseen and unexpected actions. Therefore, the GSP scheme has no, or only a very limited, importance for investment decisions in the developing countries and it has no significant impact on their industrialization. Furthermore, the efficiency of the world wide GSP scheme is reduced by the absence of a single system with a uniform coverage of products, with sufficient and across the board tariff cuts, and with homogenous requirements regarding the origin and documentation of products.

## II Non-tariff Protection

One of the aims of the common EEC commercial policy is to align all trade liberalization, export policy and protective commercial measures used in the EEC countries. This target has not yet been completely achieved, even though importation of the great majority of products has already been liberalized (i.e. not subject to any quantitative restriction on the EEC level). As the

traditional national conceptions of commercial policy in the EEC countries differ considerably, decision-making in this field is particularly difficult.

As long as the establishment of an EEC commercial policy is incomplete, the EEC countries are still empowered to apply quantitative restrictions on non-liberalized products at the national level. At present, quantitative import restrictions may be used by various EEC countries on about 150 categories of products,[19/] among them products which are of particular interest to developing countries such as footwear, television and radio sets and parts, cutlery and plywood. The individual share of the EEC countries on those non-liberalized products is, according to the "Common Liberalization List" published in 1979, similar for Belgium, Germany, Ireland, Luxembourg, the Netherlands and the United Kingdom (each with about 20 categories of products) and considerably higher for France and Italy (each with about 80 categories of products).[20/]

The non-tariff protection, used in the EEC as a whole, corresponds to the GATT norms as well as to the generally accepted nonconformities with these norms. This section will deal with the quantitative restrictions on imports of textiles and clothing, which have not yet been liberalized on the EEC level; with the EEC rules dealing with the implementation of quantitative restrictions on liberalized products in accordance with the safeguard clause of the GATT; with the imposition of anti-dumping and countervailing duties; and with the EEC agricultural policy.

Textiles and Clothing

One important condition for trade liberalization is non-discrimination. This principle, even though firmly established in the GATT, has been suspended for a wide range of textiles and clothing, products which are of greatest interest to developing countries. As early as 1961, an Arrangement on International Trade in Cotton Textiles, permitting quantitative restrictions on cotton products, was agreed on in the GATT. In 1962 it was replaced by the Long-term Arrangement on International Trade in Cotton Textiles (LTA). The LTA was followed by the Multifibre Arrangement (MFA) in 1973, enlarging the range of products concerned to wool, fine animal hair, and man-made fibres textiles and clothing. Both the LTA and the MFA were intended to handle adjustment problems of the textiles and clothing industries in the developed

countries caused by low-cost suppliers from developing countries. Thus, they were explicitly discriminatory.

The basic objectives of the MFA are, "to achieve the expansion of trade, the reduction of trade barriers to such trade and the progressive liberalization of world trade in textile products, while at the same time ensuring the orderly and equitable development of this trade and avoidance of disruptive effects in individual markets and on individual lines of production in both importing and exporting countries. ... a principal aim ... shall be to further the economic and social development of developing countries and secure a substantial increase in their export earnings from textile products and to provide scope for a greater share for them in world trade in these products." [21/] The introduction of new quantitative restrictions was only allowed under clearly defined conditions. For example, they were not to be set below the import volume actually observed over a twelve-month period closely preceding the time of introducing the restrictions. If restraint measures were extended, the import level fixed for the new twelve-month period was supposed to be increased by at least 6 per cent of the previous one. Furthermore, the MFA signatories were allowed to conclude bilateral agreements to eliminate risks of market disruption in advance. These bilateral agreements, however, were supposed to be more liberal than existing quantitative restrictions.

- First Extension of the Multifibre Arrangement (1977-81)

In 1977, when the first renewal of the MFA was negotiated, the EEC did not succeed in changing the procedure of fixing the growth rates. The EEC intended to admit growth rates for every developing country's exports which should be inversely proportional to the country's share in all EEC imports of the product in question. Such "internal globalizing" with high - and probably unexhausted - growth rates for less sensitive and less important products from relatively less developed countries and low growth rates for the strong supplier countries would have reduced the EEC imports of textiles and clothing without touching the MFA growth rate of 6 per cent. Instead, a clause in the Protocol, extending the MFA, allowed that a "mutally acceptable solution within the framework of MFA could be negotiated in a spirit of equity and flexibility which does include the possibility of jointly agreed reasonable departures from particular elements in particular cases".[22/] This

divergence from the MFA, the so-called reasonable departure clause, was to be only temporary and last the shortest possible time.

Under the umbrella of these guidelines, the EEC negotiated voluntary export restraints in bilateral agreements with Argentina, Bangladesh, Brazil, the People's Republic of China, Colombia, Egypt, Guatemala, Haiti, Mexico, Pakistan, the Philippines, Peru, Romania, Singapore, Sri Lanka, Thailand, Uruguay and Yugoslavia.[23/] Each developing country agreed to establish and maintain quantitative limits on its exports of specified textile products to the EEC, while the EEC undertook not to introduce quantitative restrictions on these products. The predominant supplier countries accepted anomalously low growth rates for products where their share in the EEC market was already very high, or even reductions of their exports for the period 1978-1982. The largest developing countries exporters reduced their 1978 exports below the 1976 level (the relevant figures are minus 9 per cent for Hong Kong, minus 7 per cent for the Republic of Korea and minus 25 per cent for Taiwan Province of China).[24/] For other, non-restricted supplies, the EEC conceded higher nominal growth rates for the same period. Thus, the growth rate of 6 per cent could be observed globally.

At least 98 per cent of EEC imports of "low-cost" textiles and clothing are covered by quotas.[25/] The growth rates are generally below 6 per cent. The lowest rates were granted for cotton yarn and woven fabrics of cotton (on average 0.5 per cent), blouses and shirt-blouses for women, girls and infants, and men's and boys' shirts (both on average 1 per cent). Actually, the volume of EEC imports of MFA products originating in countries which were contracting parties of bilateral agreements rose on average by only 2.5 per cent annually and by 0.8 per cent for the most sensitive products during the period 1977 to 1980.[26/]

The observance of the quantitative limits is ensured as follows: the appropriate governmental authority of the developing country issues export licences up to the relevant quantitative limits. To make certain that the quantitative limits can also be controlled by the EEC authorities (i.e. a double-checking system), the importation of the products concerned into the EEC is made subject to an import authorization. The import authorization is issued by the appropriate authorities in the EEC countries on the presentation of the corresponding export licence. If the EEC authorities find that the

quantitative limit has been reached, they will refuse the issue of further import authorizations even though export licences may have been issued by the developing countries.

Moreover, further textiles and clothing can be made subject to quantitative limits if the level of a developing country's exports exceeds a certain percentage of the total EEC imports of the product in question in the preceding year. This percentage varies from 0.2 per cent for the most sensitive products in categories 1 to 8, to 5 per cent for non-sensitive products; it depends as well on the exporting country. If the exports of a given developing country and contracting party of a bilateral agreement exceed the given percentage, the EEC may request the opening of consultations with the view to reaching agreement on an apropriate restraint level. Pending a mutually satisfactory solution, the developing country undertakes to suspend or limit exports of the product in question at the level proposed by the EEC. If the parties fail to reach a satisfactory solution within a certain time, the EEC may introduce the quantitative limit, neither lower than that indicated in the request for consultations, nor lower than the 1976 exports of the product. The implementation of these quantitative limits may be restrained to a specific region of the EEC.

Where textiles or clothing originating in a country with a centrally planned economy are imported at abnormally low prices, and cause serious harm to EEC industries, the EEC authorities may, on request of an EEC country, open consultations with the supplying country. If agreement is not reached within a certain time, the EEC authorities are entitled by the bilateral agreements concerned to authorize the requesting EEC country to suspend imports of the product in question temporarily.

Imports of textiles and clothing providing voluntary export restraints are generally made subject to the presentation of a certificate of origin. In this context, products are considered to be originating in the country where they have been wholly produced or where the last substantial operation in the processing or manufacture of the product has been carried out.[27/] The certificate of origin is issued by the apropriate governmental authority of the supplying country.

- Second Extension of the Multifibre Arrangement (1982-86)

The extension of the MFA beyond 1981 was agreed on in December 1981. The protocol extending the MFA until 31 July 1986, does not repeat the "reasonable departure" clause on which the low growth rates were originally based. Instead, a clause allows differential treatment for dominant supplier countries, based on their expression of "good will to find and contribute to mutually acceptable solutions to particular problems relative to particularly large restraint levels arising out of the application of the Arrangement as extended by the Protocol".[28/] Furthermore, the protocol provides other means to reduce exports under certain conditions: the conclusion of mutually acceptable bilateral agreements on lower positive growth rates and the negotiations of suitable arrangements when consistently underutilized quotas experience a sharp and substantial increase in imports ("surge clause"). On the other hand, concessions are made on exports of new entrants and small suppliers as well as on exports of cotton textiles by cotton producing countries.

The technical and administrative provisions in the new bilateral agreements based on the second renewal of the MFGA will remain more or less the same. The "surge clause" will probably result in the following additional provisions in the bilateral agreements: If exports of particular textiles or clothing which are subject to quantitative limits exceed in any Agreement year the level of the preceding year's exports by 10 per cent of the quantitative limit fixed for the current year, the EEC may request the opening of consultations. These consultations may aim at a modified quantitative limit fixed below the limit originally agreed on and at corresponding compensation. The growth rates for the product concerned shall be fixed in a manner which ensures that the level of the quantitative limit fixed for 1986 will be regained in that year.

The full extension of protection resulting from this renewal of the MFA depends crucially on the bilateral agreements which will follow the bilateral agreements applicable until 31 December 1982. For the following period, the EEC is ready to admit an annual increase of 1 per cent for products in the most sensitived categories 1 to 8, and of an average of 3 per cent for those products in the following two categories. The quantitative limits for the predominant supplier countries (Hong Kong, the Republic of Korea, Taiwan

Province of China and Macao) will be cut by 10 per cent over the four years 1982-85 with a larger cut in the first half.[29/] If it proves impossible to conclude satisfactory new bilateral agreements, the EEC will be unable to remain a party to the MFA an EEC speaker declared in connection with the Protocol extending the MFA in December 1981.[30/]

- Evaluation of Protection

The history of quantitative restrictions on textiles and clothing reveals a sharp increase in protectionism. Exports of textiles and clothing, which are of major importance for economic growth in the bulk of developing countries, have been more and more restricted by bilateral agreements. The lower growth rates on exports of the developing countries, as imposed by the developed countries via bilateral agreements, stands in contradiction to the objectives declared in the MFA on behalf of the developing countries: to further their economic and social development and to secure a substantial increase in their export earnings from textile products. According to GATT data, the share for developing countries in world trade with textiles and clothing has stagnated at between 25 and 26 per cent since 1977,[31/] i.e. the year when the "reasonable departure clause" was put into force, allowing an increase in protectionism.

The voluntary export restraints may be considered favourable for the developing countries in that they assure textiles and clothing market access in quantities fixed for a 4-5 year period in advance. On the other hand, they expose the developed country to the danger of neglecting the necessary adjustments in their textiles and clothing policy which would have occurred under less restricted market conditions. Furthermore, they tend to cartelize the system of existing exporters in general. For the developed countries, the bilateral agreements allow prompt and flexible reactions to alterations in the trade flows if they consider it necessary. They have several possibilities to intervene and to change the provisions of the bilateral agreement. Even though prior consultations are required, the stronger bargaining position of the developed countries enables them to impose their intention through an explicit or implicit threat of introducing even less favourable measures otherwise.

Quantitative export restrictions are more effective as trade barriers than customs duties. An exporter can compensate for the trade restricting effect of customs duties by through price cuts. But exports of a given product are halted abruptly after the exhaustion of a quota. With its highly sophisticated system of quota controls, the EEC effectively excludes exports above the stated quota amounts. Given that textiles and clothing are by now highly protected in all major developed countries, the developing countries face a net loss in export earnings as their export quantities become further restricted by an increase in protectionism. The exporters suffer a loss of income as the internal market is probably unable to absorb the additional quantities excluded from the EEC market. This prospect and the fact that the EEC tends to restrict exports when the developing country has achieved a certain market penetration, makes investment in the textile and clothing industry undesirable, even though the developing countries have competitive advantages in this sector. Potential investors have to fear losses as soon as the created capacity proves to be effective and successful. Shifts to the production of less protected textiles and clothing will be more or less futile given that the "surge clause" enables the EEC to restrict these exports too.

In view of a 20 year history of protection on textiles and clothing it may be considered doubtful if the developed countries have followed an effective policy of structural adjustment in their textiles and clothing industries. Rather, it has become apparent that protectionism in this field is a permanent institution now, far away from the intentions of the original MFA. Little wonder that the developing countries get more and more disillusioned with the international trading system, as presently constituted, and with the credibility of developed countries' promises, made in the framework of international arrangements.

Safeguard Clause

The GATT provides a safeguard clause which enables the countries concerned to undertake emergency action on imports of particular products if necessary. The use of this safeguard clause is bound to prior consultation, non-discrimination, and compensation for resulting losses to those countries affected by the measures taken. To guarantee that the EEC authorities are informed of any danger which results from trends in imports calling for surveillance or protective measures, a system of information and consultation

procedures has been installed. Moreover, the EEC countries are obliged to supply the EEC authorities with information concerning developments in markets for the product in question according to the terms requested by the latter. In addition, an advisory committee examines the terms and conditions of importation, import trends, and various aspects of the economic and commercial situation concerning the product in question. If it becomes apparent that a market development threatens to cause injury to EEC producers of similar or directly competing products, and if the the EEC deems it necessary, the importation of that product may be made subject to surveillance at the national level. A product under surveillance can clear customs only on presentation of an import document. This document is issued free of charge for any requested quantity.

Where a product under surveillance is imported into the EEC in such greatly increased quantities and/or on such terms or conditions as to cause substantial injury to EEC industries, the EEC authorities may limit the period of validity of the import documents. Thus, the controlled period is shortened to enable the EEC authorities to react quickly with more restrictive measures if necessary. Finally, the import rules can be altered to suit that product by providing that it may clear customs only on presentation of an import authorization. The granting of the import authorization may be made subject to quantitative limits. These measures may also be taken by an individual EEC country which finds the situation critical in its territory.

According to the GATT principle of non-discrimination, quantitative restrictions such as safeguard measures can only be implemented against exports of the product in question from all countries. This may give occasion to retaliatory measures by other important trading countries. Thus, this safeguard clause has rarely been used. Preference was given to bilateral agreements on voluntary export restraints and similar agreements. These non-tariff trade barriers raised the uncertainty of market access for the exporters concerned and led to higher costs for the aquisition of relevant information. The growing tendency to introduce such less visible and uncontrollable measures outside the GATT instruments was supposed to be stopped by the instalment of specified rules for the application of the GATT safeguard clause. But the Tokyo Round failed in this task, and until now, no significant progress has been made in passing obligatory rules on safeguard measures. These rules should specify objective criteria for the

implementation of safeguard measures, ensure their temporary nature, and provide for their international control within an agreed framework of rights and obligations. The EEC is insisting on a selective application of safeguard measures only against that or those countries whose exports are causing actual difficulties. The developing countries, afraid to being the main target of such measures, refuse to accept this discrimination against themselves.

Anti-dumping and Countervailing Duties

The EEC regulation on anti-dumping and countervailing duties[32/] is in close accordance with the GATT codes on subsidies and countervailing duties and with the revised anti-dumping code, both resulting from the Tokyo Round. An anti-dumping duty may be applied to any dumped product whose entry for consumption in the EEC causes injury. A product is considered to have been dumped if the price actually paid or payable by the importer (export price) is less than the "normal value" of a comparable product. The normal value is defined roughly as the comparable price for the same product intended for consumption in the exporting country or in the country of origin or - if there are no comparable sales on the domestic market - as the price for the same product exported to any third country. If none of those prices are available the normal price is the constructed value i.e. the costs in the ordinary course of trade of materials and manufacture in the country of origin plus a reasonable margin for overhead cost and profit.

For imports from non-market economies the normal value is determined on the basis of prices (or constructed values) for a similar product in a market economy. When comparing the export price and the normal value of particular products, differences in physical characteristics, quantities, conditions and terms of sale, and the level of trade have to be taken into account. A countervailing duty may be imposed for the purpose of offsetting any subsidy upon manufacture, production, export or transport bestowed in the country of origin or export for any product whose entry for consumption in the EEC causes injury.

Anti-dumping or countervailing duties are only justified if the dumped or subsidized imports are causing, or threatening to cause, material injury to an established EEC industry or materially retarding the establishment of such an industry. This injury must be caused by the effects of dumping or

subsidization. Injuries caused by imports which are not dumped or subsidized, or by other factors, such as a contraction in demand, must not be attributed to the dumping or subsidization imports.

The following factors are to be regarded in examination of injury:

- Volume of dumped or subsidized imports; in particular, whether there has been a significant increase either in absolute terms or in their volume relative to production or consumption in the EEC;

- Prices of dumped or subsidized imports; in particular, whether there has been a significant price reductions as compared with the price of a comparable product in the EEC;

- The resulting impact on the industry concerned as indicated by actual or potential trends in the relevant economic factors, such as production, utilization of capacity, stocks, sales, market shares, prices (i.e. depression of prices or prevention of price increases which would otherwise have occured), profits, return on investment, cashflow and employment.

Any person considering himself injured or threatened by dumped or subsidized imports may initiate an anti-dumping procedure by providing sufficient evidence to support such claims. When consultations within an advisory committee conclude that an anti-dumping procedure is justified the EEC authorities announce the initiation of proceeding in the Official Journal and start an investigation at the EEC level. A conclusion should be reached within one year after the initiation of the proceeding.

If it becomes apparent that the protective measures are unnecessary the proceeding is terminated. The proceeding may also be terminated if appropriate undertakings to prevent further injury are offered by the government of the country of origin or export. Such undertakings may concern the elimination of the subsidy or measures to avoid its injurious effects. The undertakings may also guarantee that prices will be revised or exports will be reduced to ensure that their injurious effects are eliminated. Where the EEC interests call for intervention to prevent injury being caused during the proceeding, the EEC authorities can impose a provisional anti-dumping or

countervailing duty. The provisional duties have a maximum validity of six months. Where proceedings confirm that the conditions for imposing an anti-dumping or countervailing duty are fulfilled a formal anti-dumping or countervailing duty is imposed.

On the basis of anti-dumping procedures either initiated or concluded in 1981, and from instances where provisional or definitive anti-dumping duties were imposed in 1981, the following observations can be made:

- This protectionist instrument is clearly used more against other important trading countries with market-economies (mainly the United States) and countries with centrally planned economies than against developing countries.

- The tendency to increase protectionism in the chemical sector found in the context of the GSP is confirmed here; 18 of 34 products, subject to anti-dumping duties, belong to this sector.

- The period between the initiation of the anti-dumping procedure and its termination generally exceeds six months.

The outcome of the listed proceedings was: (a) in 8 cases termination without imposing an anti-dumping duty because protective measures were unnecessary; (b) in 11 cases termination without imposing an anti-dumping duty because undertakings were offered; (c) in 13 cases a provisional or definitive anti-dumping duty was imposed; and (d) in 8 cases the proceedings were terminated partially by the offering of undertakings and partially by the imposition of definitive anti-dumping duties.

Again, the tendency towards increased protectionism and towards negotiated bilateral agreements (here: undertakings) is significant. In the period from 1970 - when the first EEC anti-dumping regulation was put into force - to 1975, the EEC has only initiated about 20 anti-dumping procedures. None of these procedures ended with the imposition of anti-dumping duties. Since 1976, the situation has changed. In 1976 and 1977, more than 20 anti-dumping procedures were initiated. Three of these were terminated with the imposition of an anti-dumping duty and 17 were terminated because the exporter offered

undertakings.[33/] In 1982, 31 products have been subject to anti-dumping duties.

Whatever the outcome of an anti-dumping or countervailing duty procedure may be, protectionist demands for an anti-dumping or countervailing duty inflict losses on the exporter. The procedure creates uncertainty and that is detrimental for the pursuit of the existing trade relations. The EEC importer has to fear financial losses in the form of additional duties if he continues to purchase the product in question. Thus, he will probably look for other sources of supply to the prejudice of the exporting country. Even when the exporter raises the price for the product in question to avoid the anti-dumping duty he will probably suffer damages, as the customer may look for less expensive products in other countries.

The Common Agricultural Policy

Protectionism in agriculture has a long tradition given that the security of food supplies and the welfare of the farming population were generally regarded as main elements of the policy. Even the GATT allows quantitative restrictions on agricultural products when the domestic production of a given product is itself controlled or in surplus. Thus, the common agricultural policy can be considered to be formally in accordance with the GATT. The objectives of the EEC agricultural policy are "(a) to increase agricultural productivity by developing technical progress and by ensuring the rational development of agricultural production and the optimum utilization of the factors of production, labour in particular; (b) to ensure thereby a fair standard of living for the agricultural population, particularly by increasing the individual earnings of persons engaged in agriculture; (c) to stabilize markets; (d) to guarantee regular supplies; and (e) to ensure reasonable prices in supplies to consumers."[34/] To achieve these targets a common organization of agricultural markets was established in 1968. Today, it is effected by 21 basic regulations referring to different sectors of agricultural production.[35/] The system is completed by 4 regulations concerning trade arrangements for products which are not subject to the common organization of agricultural markets, but result from the processing of agricultural products or can be used as substitutes.[36/] The common organization of agricultural markets comprises, in particular, price controls, subsidies to the production and marketing of various products, arrangements

for stock-piling, and a common administrative machinery for stabilizing their imports and exports.

- Description of the Protective Means

On the internal EEC market, about 70 per cent of agricultural products benefit from a system of common guaranteed prices, fixed yearly. When the EEC market price for cereals, sugar, milk and milk products, beef and veal, or sheep meat falls below the so-called intervention price, the Community has to buy a certain quantity of the product concerned and to store it for a certain time until the market recovers. For pig meat, certain fruits and vegetables, and table wines the Community's intervention can also consist in storage assistance, withdrawal of products from the market and aid for distillation. For durum wheat, olive oil, certain olagineous products, and tobacco (i.e. 2.5 per cent of agricultural products) additional assistance is granted and for several other products which are of minor importance, such as flax, hops or seeds for example, a flat-rate aid per hectare or aid determined by the produced quantity is paid. For 25 per cent of agricultural production (other fruits and vegetables, flowers, wine other than table wine, eggs and poultry meat) additional customs duties or levies can be imposed during certain periods of the year to prevent disturbing world fluctuations.

The internal EEC price system can only be operated if it is not influenced and disturbed by cheaper imports from the world market. Thus, a common trading system is applied at the EEC's external frontiers on products of the following sectors: sugar, products processed from fruits and vegetables, cereals, pig meat, eggs, poultry meat, rice, beef and veal, and milk products. The trading system works as follows: when the world market price is lower than the EEC price - which was generally the case, except for several products in 1974-75 - a levy is charged on imports. This levy is equal to the difference between the threshold price (which is fixed annually and corresponds to the intervention price) and the cif price (which is calculated on the basis of the most favourable purchasing opportunities on the world market). Thus, the amount of this levy varies according to the fluctuations of the world market price. To enable EEC products to be exported under normal conditions the difference between world market prices and the EEC prices may be covered by an export refund. By determining the level of such refund the economic aspects of the export in question are taken into account.

If a shortage of sugar, for instance, on the world market pushes up the world market price to a level higher than that of the EEC price, a levy is charged on exports. The levy is fixed in the same way as described for import levies. As the cif price is higher than the EEC threshold price the prices of exports are lifted up to the height of world market prices. Levies on exports can also be charged if there are difficulties in the normal supplies to the EEC as a whole or to one of its regions. The export levy prevents the export of regional surpluses to non-EEC countries. For imports a subsidy may be granted.

To enable the EEC authorities to keep a constant watch on movements in trade with non-EEC countries and to assess the trends thereof, all imports and all exports in the most important sectors of agriculture are conditional upon the presentation of an import or export licence. The issue of a licence is subject to the lodging of a deposit which guarantees that importation or exportation is effected during the period of the licence validity. The established price adapted levy system is so effective that normally no other protective measures are necessary at the external EEC border. But if the common prices and levy machinery should prove defective in some exceptional circumstances, the EEC market is not left without a defence. If the EEC market is threatened or experiences serious disturbances likely to endanger the objectives of the common agricultural policy, appropriate measures may be taken until such disturbances or threat has ceased to exist. Such measures were implemented between July 1974 and March 1977 for example, when beef imports were suspended.

- Evaluation of Protection

The level of protection resulting from variable levies is often indicated by its ad valorem tariff equivalents. An example of the incidence is given for several agricultural products in the following table:[37/]

| | Butter | Oilseeds | Wheat | Maize | Sugar | Beef | Rice |
|---|---|---|---|---|---|---|---|
| 1975/76 | 220 | 27 | 24 | 28 | 9 | 96 | 37 |
| 1976/77 | 301 | 21 | 104 | 63 | 76 | 92 | 66 |
| 1977/78 | 288 | 53 | 116 | 103 | 155 | 96 | 28 |
| 1978/79 | 303 | 61 | 93 | 101 | 176 | 99 | 57 |
| 1979/80 | 411 | 85 | 63 | 90 | 90 | 104 | 31 |

The figures resulting from the conversion of variable levies to equivalent ad valorem duties are impressive, but they do not represent the actual extent of protection. Customs duties, even though they are very high, do not exclude market access definitively. Existing or potential exporters can reduce their prices to gain a competing advantage on the market they want to penetrate. This possibility is excluded when variable levies are imposed. As mentioned above, they are calculated on the most favourable purchasing opportunities on the world market, and they are recalculated daily. Thus, the self-acting of the levy system prevents any exporter from improving his supposed competitive advantage. The price reduction will increase the EEC revenues, but it will not help the exporter to gain a better market access. Thus, the system of variable levies is the most detrimental trade barrier erected by the EEC. The internal EEC prices can be maintained independent of the exporter's price cuts.

The trading system insulates the EEC producers and consumers of agricultural products totally from the impact of variations in demand and supply on the world market.[38/] Normally, such variations in the demand or supply of a certain product have an effect on demand in the domestic market. An excess in supply on the world market, for instance, lowers the prices for the product concerned. Cheaper prices result generally in a higher demand which will help to cope with surplus supplies. Thus, some of the world market disturbances can be absorbed. To the extent that the EEC agricultural market, is insulated from the world market through variable levies, this process of adjustment is curtailed. This makes the remainder of the market suffer from higher instability than it would do if the burden of adjustment was shared. On the other hand, insufficient supply in the EEC leads to imports, and thus to a higher demand on the world market and, probably, to an increase of prices the world market has to deal with.

By excluding market competition as well as market disturbances and by guaranteeing high prices for agricultural products the EEC succeeded most notably with respect to one of the aims of its common agricultural policy: agricultural productivity has increased rapidly, by an average of 6.7 per cent from 1968 to 1973 and by 2.5 per cent since then.[39/] However, consumption of agricultural products in the EEC did not increase to the same extent, indeed, in some cases it even contracted. Thus, under the shelter of the common price system, EEC farmers are producing huge surpluses in different sectors year by year. The storage and disposal of these surpluses is highly

expensive, for example, beef and dairy products. The EEC can only dispose of these surpluses when they can be sold on the world market. The high priced agricultural products are made competitive on the world market by the refunds granted to the exporters. By that means, in 1981, the EEC became the largest exporter of dairy products and the world's second largest exporter of sugar and beef.[40/] Such huge quantities as exported from the EEC at subsidized prices has had a dampening effect on the world market prices. EEC exports are supposed to have contributed to the weakness of the international beef prices in 1981/82 and to have aggravated the fall in world agricultural prices in general.

Primary products, such as sugar, rice, tobacco, beef and vegetable oils, competing with highly protected EEC agricultural products, belong to the main exports of many developing countries and mainly the poorer ones. These products have to be exported to a world market which is rather limited given that it is not only the EEC that protects its agriculture and renders market access difficult. Thus, exports to these more or less closed markets are very difficult if not impossible. Exports to other more open markets are seriously disturbed by the subsidized exports of the high-cost production in the developed countries. "There is now hardly a major agricultural product supplied by the developing countries in competition with developed countries for which the world market is not undermined or distorted by subsidized exports or concessional sales from surplus stocks of the developed countries."[41/]

The surpluses produced under the shelter of the EEC agricultural policy indicate clearly the disadvantages of the EEC system of high guaranteed prices and the exclusion of competing exports. In 1981, the expenditures for the common agricultural policy represented a burden of 70 per cent of the EEC total budget, cutting short the financial means to initiate changes in rural infrastructure, employment and social organization for example. Even though measures have been taken to reduce the output of the sectors affected most (mainly sugar, dairy products and wine) the situation has not changed significantly. The limitation of the financial resources in the EEC may effect a change to the better some day.

## III Summary and Conclusion

The preceding chapters have shown how exports of developing countries are impeded by mfn tariffs which emerged as extraordinarily high for those products which are of greatest interest to the developing countries. The GSP scheme, as it is imposed in the EEC, does not change the situation substantially because preferential exports of products for which developing countries enjoy a comparative advantage are limited by quantitative restrictions. Further restrictions, mainly in the form of quantitative restrictions by voluntary export restraints under the cover of the MFA and in the form of the EEC agricultural policy are also directed against products which represent the main share of developing countries' exports and thus crucially affect their overall export capacity.

The measures, described here as used by the EEC, are in principle not limited to the EEC. Given that the EEC protectionist measures are based on the GATT, or on the internationally agreed divergences from the GATT principles, their use is common and wide spread among developed countries, even though their appearance may vary in detail. Some of the measures imposed by the United States or Japan, for instance, may not prevent developing countries' exports as effectively as the EEC measures do, but there are other means which lead to a similar result. The cumulative effect all protectionist measures, imposed by the most important trading countries, amplifies their negative impact on the exports of developing countries and has a detrimental effect on their development. The developing countries have no possibility of evading the trade restrictions given that they are dependent on export markets in developed countries.

The developing countries have to deal with a variety of bilateral agreements, separate settlements for certain products as well as with complex and difficult administrative requirements established by the EEC and other developed countries. These factors generate uncertainty which seriously inhibits and distorts trade and investment. What is more, this uncertainty tends to reduce exports even below the levels regarded by the developed countries as necessary to protect their industries. Countries, especially the less developed developing ones, lose scarce resources to overcome the uncertainty, which is reinforced by a lack of information, or do not benefit

from export possibilities and other advantages by ignorance of the sophisticated regulations established by the developed countries.

Footnotes

1/ UNCTAD study on "Protectionism and Structural Adjustment in the World Economies", document TD/B/888, 15 January 1982, p.7.

2/ The expression "mfn" (i.e. most favoured nation) tariff rate results from a clause in Article 1 of the GATT providing that every GATT signatory gets the benefit of tariff concessions accorded among other GATT signatories.

3/ See the EEC's Common Customs Tariff, published in the OJ NO. L 342, 31.12.1979.

4/ Alec Cairncross and others, "Protectionism: Threat to International Order - The Impact on Developing Countries", The Commonwealth Secretariat, London, 1982, p.29.

5/ Council Regulation (EEC) No. 3320/80 of 16 December 1980 opening, allocating and providing for the administration of Community tariff preferences for textile products originating in developing countries and territories.

Council Regulation (EEC) No. 3321/80 of 16 December 1980 applying generalized tariff preferences for 1981 in respect of certain agricultural products originating in developing countries.

Council Regulation (EEC) No. 322/80 of 16 December 1980 establishing a multiannual scheme of generalized tariff preferences and its application for 1981 in respect of certain industrial products originating in developing countries.

Decision No. 80/1185/ECSC of 16 December 1980 applying for 1981 the generalized tariff preferences for certain steel products originating in developing countries.

The regulations and the decision are published in the OJ No. L 354, 29.12.1980. The regulations and the decision concerning the generalized preferences in 1982 are published in the OJ No. L 365, 31.12.1981.

6/ The figures are spread in a bulk of EEC documents.

7/ Commission of the European Communities, Europe Information, No. 28/79, December 1979, p.7.

8/ The quantity conceded for preferential access in 1980 represents about one fifth of all textiles and clothing exports of the GSP beneficiary countries in 1977.

9/ Ernst-August Heorig, "Allgemeine Zollpraeferenzen fuer Entwicklungslaender - EG-Regelung fuer 1980", Mitteilungen der Bundesstelle fuer Aussenhandelsinformation, Koeln, No. 49, February 1980, p.4.

10/ Commission Regulation (EEC) No. 3510/80 of 23 December 1980 on the definition of the concept of originating products for purposes of the application of tariff preferences granted by the European Economic Community in respect of certain products from developing countries, OJ No. L 368, 31.12.1980, p.1.

11/ "Tariff heading" refers to the heading of the Brussels Tariff Nomenclature (BTN) on which the Common Customs Tariff as used in the EEC is based.

12/ The definition of a concept of "originating products" is part of the Lomé Convention (published, for instance in The Courier ACP-EEC No. 58 - Special Issue - November 1979).

13/ Commission Regulations (EEC) No. 3510, 3511 and 3512/80 of 23 December 1980, OJ No. L 368, 31.12.1980, pp 57, 60 and 63.

14/ Antonino Pitrone, "Schema des Preferences Tarifaires Generalisées de la Communauté pour 1980 et Orientations pour l'Avenir", Europolitique Dossier No. 672, 26 March 1980, p. 17.

15/ Ibid.

16/ Ibid., p. 19.

17/ The given rates are calculated on figures published in the OJ No. C 185, 23.7.1979, pp. 24 and 25, by Antonino Pitrone, op. cit., p. 19, and in several EEC documents.

18/ European Parliament, document 1-455/80, 8 October 1980, p. 10, and OJ No. C 185, 23.7.1979, p. 23.

19/ A synopsis of non-liberalized products can be found in the "Common Liberalization List" published in connexion with Council Regulation (EEC) No. 926/79 of 8 May 1979 on common rules for imports, OJ No. L 131, 29.5.1979, p. 15. Further regulations concerning liberalization are Council regulation (EEC) No. 925/79 of 8 May 1979 on common rules for imports from state-trading countries, OJ No. L 131, 29.5.1979, p.1, and Council Regulation (EEC) No. 2532/78 of 16 October 1978 on common rules for imports from the People's Republic of China, OJ No. L 306, 31.10.1978, p.1.

20/ Some of the products concerned are subject to restrictions in two or more EEC countries.

21/ Article 1, para. 2 and 3, of the Arrangement regarding International Trade in Textiles of 20 December 1973, GATT document TEX.NG/1.

22/ The Protocol of 15 December 1977 extending the MFA is published in the OJ No. L 348, 30.12.1977, p. 60.

23/ These bilateral agreements directed to the Council Regulation (EEC) No. 3059/78 of 21 December 1978 on common rules for imports of certain textile products originating in third countries, OJ No. L 365, 27.12.1978, p.1, and Council Regulation (EEC) No. 3061/79 of 20 December 1979 on common rules for imports of certain textile products originating in the People's Republic of China, OJ No. L 345, 31.12.1979, p.1.

An example for a bilateral agreement is the Agreement between the European Economic Community and the Republic of Peru on trade in textile products, published in the OJ No. L 350, 31.12.1979, p. 60.

24/ Bela Balassa, "The 'New Portectionism' and the International Economy", Journal of World Trade Law, Vol. 12, September/October 1978, p. 414. EEC quotas on products of Taiwan Province of China, are imposed unilaterally by the EEC as Taiwan Province of China, is not a signatory of the MFA.

25/ Alec Cairncross and others, op. cit., p. 53.

26/ Ibid., p. 55.

27/ Council Regulation (EEC) No. 616/78 of 20 March 1978 on proof of origin for certain textile products within Chapter 51 or Chapter 53 to 62 of the Common Customs Tariff and imported into the Community, and on the acceptance of such proof, OJ No. L 84, 31.12.1978, p.1.

Commission regulation (EEC) No. 749/78 of 10 April 1978 on the determination of the origin of textile products falling within Chapters 51 and 53 to 62 of the Common Customs Tariff, OJ No. L 101, 14.4.1978, p. 7.

28/ Paragraph 6 of the Protocol of 22 December 1981 extending the MFA, published in the OJ No. L 83, 29.3.1982, p. 8.

29/ Alec Cairncross and others, op. cit. pp. 54 and 55.

30/ Bull. EC 12-1981, point 1.5.4.

31/ Alec Cairncross, op. cit., p.55.

32/ Council Regulation (EEC) No. 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Community, OJ No. L 339, 31.12.1979, p.1.

33/ Christoph Bellstedt, "Antidumpingverfahren der Commission der Europaeischen Gemeinschaften", RIW/AWD - Recht der Internationalen Wirtschaft, August 1979, p. 533.

34/ Article 39 of the Treaty establishing the European Economic Community.

35/ These sectors are: live plants, cut flowers and ornamental foliage; certain products listed in Annex II of the Treaty establishing the EEC; raw tobacco; flax and hemp; hops; fruit and vegetables; dried fodder; fishery products; wine; products processed from fruits and vegetables; seeds; oils and fats; sheep meat and goat meat; sugar; cereals; rice; pigmeat; eggs; poultry meat; beef and veal; milk and milk products.

36/ These products are: certain goods resulting from the processing of agricultural products; avolbumin and lactalbumin; glucose and lactalbumin; glucose and lactose; isoglucose.

37/ Alec Cairncross and others, op. cit., p. 38.

38/ See Gary P. Sampson and Richard H. Snape, "Effects of the EEC's Variable Import Levies", Journal of Political Economy, Vol. 88, No. 5, p. 1026.

39/ Commission of the European Communities, Directorate-General for Information, "Europe's Common Agricultural Policy", No. 4/81, February 1981.

40/ Alec Cairncross and others, op. cit., pp. 25 and 37.

41/ Ibid. p. 123.

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